

House File 675 - Reprinted

HOUSE FILE 675

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 633)

(SUCCESSOR TO HF 262)

(As Amended and Passed by the House April 13, 2011)

A BILL FOR

1 An Act concerning mechanics' liens including the establishment
2 of a state construction registry for residential
3 construction property, and including effective date and
4 applicability provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 207.23, subsection 1, Code 2011, is
2 amended to read as follows:

3 1. Within six months after the completion of a project to
4 restore, reclaim, abate, control, or prevent adverse effects
5 of past coal mining practices on privately owned land, the
6 division shall itemize the money expended on the project and
7 may file a lien statement ~~in the manner provided in section~~
8 ~~572.8~~ in the office of the district court clerk of each county
9 in which a portion of the property affected by the project is
10 located, together with a notarized appraisal by an independent
11 appraiser of the value of the land before the restoration,
12 reclamation, abatement, control, or prevention of adverse
13 effects of past mining practices if the money so expended
14 results in a significant increase in property value. A copy
15 of the lien statement and the appraisal, if required, shall be
16 served upon affected property owners in the manner provided
17 for service of an original notice. The lien shall not exceed
18 the amount determined by the appraiser to be the increase in
19 the market value of the land as a result of the restoration,
20 reclamation, abatement, control, or prevention of adverse
21 effects of past coal mining practices. A lien shall not be
22 filed in accordance with this subsection against the property
23 of a person who owned the surface prior to May 2, 1977, and who
24 neither consented to, participated in, nor exercised control
25 over the mining operation which necessitated the reclamation
26 performed.

27 Sec. 2. Section 572.1, Code 2011, is amended to read as
28 follows:

29 **572.1 Definitions and rules of construction.**

30 For the purpose of this chapter:

31 1. "Administrator" means the secretary of state.

32 ~~1.~~ 2. "Building" shall be construed as if followed by the
33 words "erection, or other improvement upon land".

34 3. "General contractor" includes every person who does work
35 or furnishes materials by contract, express or implied, with an

1 owner. "General contractor" does not include a person who does
2 work or furnishes materials on contract with an owner-builder.

3 ~~2.~~ 4. "Labor" means labor completed by the claimant.

4 ~~3.~~ 5. "Material" shall, in addition to its ordinary
5 meaning, include includes machinery, tools, fixtures, trees,
6 evergreens, vines, plants, shrubs, tubers, bulbs, hedges,
7 bushes, sod, soil, dirt, mulch, peat, fertilizer, fence wire,
8 fence material, fence posts, tile, and the use of forms,
9 accessories, and equipment furnished by the claimant.

10 ~~4.~~ 6. "Owner" means the record legal or equitable
11 titleholder and every person for whose use or benefit any
12 building, erection, or other improvement is made, having the
13 capacity to contract, including guardians of record.

14 ~~5.~~ "Owner-occupied dwelling" means the homestead of an
15 owner, as defined in section 561.1, and without respect to the
16 value limitations in section 561.3, and actually occupied by
17 the owner or the spouse of the owner, or both. "Owner-occupied
18 dwelling" includes a newly constructed dwelling to be occupied
19 by the owner as a homestead, or a dwelling that is under
20 construction and being built by or for an owner who will occupy
21 the dwelling as a homestead.

22 7. "Owner-builder" means the legal or equitable titleholder
23 of record who furnishes material for or performs labor upon a
24 building, erection, or other improvement, or who contracts with
25 a subcontractor to furnish material for or perform labor upon
26 a building, erection, or other improvement and who offers or
27 intends to offer to sell the owner-builder's property without
28 occupying or using the structures, properties, developments,
29 or improvements for a period of more than one year from the
30 date the structure, property, development, or improvement is
31 substantially completed or abandoned.

32 8. "Residential construction" means construction on
33 single-family or two-family dwellings occupied or used, or
34 intended to be occupied or used, primarily for residential
35 purposes, and includes real property pursuant to chapter 499B.

1 9. "State construction registry" means a centralized
2 computer database maintained on the internet by the
3 administrator that provides a central repository for the
4 submission and management of preliminary notices, notices of
5 commencement of work on residential construction properties,
6 and mechanics' liens on all construction properties.

7 10. "State construction registry number" means a number
8 provided by the administrator for all residential construction
9 properties posted to the state construction registry.

10 ~~6-~~ 11. "Subcontractor" shall include includes every person
11 furnishing material or performing labor upon any building,
12 erection, or other improvement, except those having contracts
13 directly with the owner. "Subcontractor" shall include those
14 persons having contracts directly with an owner-builder.

15 Sec. 3. Section 572.2, Code 2011, is amended to read as
16 follows:

17 **572.2 Persons entitled to lien.**

18 1. Every person who ~~shall furnish~~ furnishes any material
19 or labor for, or ~~perform~~ performs any labor upon, any building
20 or land for improvement, alteration, or repair thereof,
21 including those engaged in the construction or repair of any
22 work of internal or external improvement, and those engaged
23 in grading, sodding, installing nursery stock, landscaping,
24 sidewalk building, fencing on any land or lot, by virtue of any
25 contract with the owner, owner-builder, general contractor,
26 or subcontractor shall have a lien upon such building or
27 improvement, and land belonging to the owner on which the same
28 is situated or upon the land or lot so graded, landscaped,
29 fenced, or otherwise improved, altered, or repaired, to secure
30 payment for the material or labor furnished or labor performed.

31 2. If material is rented by a person to the owner, general
32 contractor, or subcontractor, the person shall have a lien
33 upon such building, improvement, or land to secure payment for
34 the material rental. The lien is for the reasonable rental
35 value during the period of actual use of the material and any

1 reasonable periods of nonuse of the material taken into account
2 in the rental agreement. The delivery of material to such
3 building, improvement, or land, whether or not delivery is made
4 by the person, creates a presumption that the material was
5 used in the course of alteration, construction, or repair of
6 the building, improvement, or land. However, this presumption
7 shall not pertain to recoveries sought under a surety bond.

8 3. An owner-builder is not entitled to a lien under
9 this chapter as to work the owner-builder performs, or is
10 contractually obligated to perform, prior to transferring title
11 to the buyer.

12 Sec. 4. Section 572.8, Code 2011, is amended to read as
13 follows:

14 **572.8 Perfection of lien.**

15 1. A person shall perfect a mechanic's lien by ~~filing with~~
16 ~~the clerk of the district court of the county in which the~~
17 ~~building, land, or improvement to be charged with the lien is~~
18 ~~situated~~ posting to the state construction registry internet
19 website a verified statement of account of the demand due the
20 person, after allowing all credits, setting forth:

21 a. The date when such material was first furnished or labor
22 first performed, and the date on which the last of the material
23 was furnished or the last of the labor was performed.

24 b. The legal description of the property to be charged with
25 the lien.

26 c. The name and last known mailing address of the owner of
27 the property.

28 d. The address of the property or a description of the
29 location of the property if the property cannot be reasonably
30 identified by an address.

31 e. The tax parcel identification number.

32 2. Upon ~~the filing~~ posting of the lien, the ~~clerk of court~~
33 administrator shall mail a copy of the lien to the owner. If
34 the statement of the lien consists of more than one page, the
35 ~~clerk~~ administrator may omit such pages as consist solely of an

1 accounting of the material furnished or labor performed. In
2 this case, the ~~clerk~~ administrator shall attach a notification
3 that pages of accounting were omitted and may be inspected ~~in~~
4 ~~the clerk's office~~ on the state construction registry internet
5 website.

6 3. A lien perfected under this section shall be limited to
7 the county in which the building, land, or improvement to be
8 charged with the lien is situated.

9 Sec. 5. Section 572.9, Code 2011, is amended to read as
10 follows:

11 **572.9 Time of filing lien posting.**

12 The statement of account required by section 572.8 shall be
13 ~~filed~~ posted by a ~~principal~~ general contractor or subcontractor
14 within two years and ninety days after the date on which the
15 last of the material was furnished or the last of the labor was
16 performed.

17 Sec. 6. Section 572.10, Code 2011, is amended to read as
18 follows:

19 **572.10 Perfecting lien after lapse of ninety days.**

20 A general contractor or a subcontractor may perfect a
21 mechanic's lien pursuant to section 572.8 beyond ninety days
22 after the date on which the last of the material was furnished
23 or the last of the labor was performed by ~~filing a claim with~~
24 ~~the clerk of the district court~~ posting a lien to the state
25 construction registry internet website and giving written
26 notice thereof to the owner. Such notice may be served by
27 any person in the manner original notices are required to be
28 served. If the party to be served is out of the county wherein
29 the property is situated, a return of that fact by the person
30 charged with making such service shall constitute sufficient
31 service from and after the time it was ~~filed with the clerk of~~
32 ~~the district court~~ posted to the state construction registry
33 internet website.

34 Sec. 7. Section 572.11, Code 2011, is amended to read as
35 follows:

1 **572.11 Extent of lien filed posted after ninety days.**

2 Liens perfected under section 572.10 shall be enforced
3 against the property or upon the bond, if given, by the owner
4 or by the owner-builder's buyer, only to the extent of the
5 balance due from the owner to the general contractor or from
6 the owner-builder's buyer to the owner-builder at the time of
7 the service of such notice; but if the bond was given by the
8 general contractor or owner-builder, or person contracting with
9 the subcontractor filing the claim for a lien, such bond shall
10 be enforced to the full extent of the amount found due the
11 subcontractor.

12 Sec. 8. Section 572.13, Code 2011, is amended by striking
13 the section and inserting in lieu thereof the following:

14 **572.13 General contractor — owner notice — residential**
15 **construction.**

16 1. A general contractor who has contracted or will contract
17 with a subcontractor to provide labor or furnish material for
18 the property shall provide the owner with the following owner
19 notice in writing in boldface type of a minimum size of ten
20 points:

21 "Persons or companies furnishing labor or materials for
22 the improvement of real property may enforce a lien upon the
23 improved property if they are not paid for their contributions,
24 even if the parties have no direct contractual relationship
25 with the owner. The state construction registry provides
26 a listing of all persons or companies furnishing labor or
27 materials who have posted a lien or who may post a lien upon
28 the improved property. If the person or company has posted its
29 notice or lien to the state construction registry, you may be
30 required to pay the person or company even if you have paid the
31 general contractor the full amount due. Therefore, check the
32 state construction registry internet website for information
33 about the property including persons or companies furnishing
34 labor or materials before paying your general contractor. In
35 addition, when making payment to your general contractor, it is

1 important to obtain lien waivers from your general contractor
2 and from persons or companies furnishing labor or materials
3 to your property. The information in the state construction
4 registry is posted on the internet website of the state
5 construction registry.”

6 2. The notice described in subsection 1 shall also contain
7 the internet website address and toll-free telephone number of
8 the state construction registry.

9 3. A general contractor who fails to provide notice pursuant
10 to this section is not entitled to a lien and remedy provided
11 by this chapter.

12 4. This section applies only to residential construction
13 properties.

14 Sec. 9. NEW SECTION. 572.13A Notice of commencement of work
15 — general contractor — owner-builder.

16 1. A general contractor or owner-builder who has contracted
17 or will contract with a subcontractor to provide labor or
18 furnish material for the property shall post a notice of
19 commencement of work to the state construction registry
20 internet website within ten days of commencement of work on
21 the property. A notice of commencement of work is effective
22 only as to any labor, service, equipment, or material furnished
23 to the property subsequent to the posting of the notice of
24 commencement of work. A notice of commencement of work shall
25 include all of the following information:

26 a. The name and address of the owner.

27 b. The name, address, and telephone number of the general
28 contractor or owner-builder.

29 c. The address of the property or a description of the
30 location of the property if the property cannot be reasonably
31 identified by an address.

32 d. The legal description of the property.

33 e. The date work commenced.

34 f. The tax parcel identification number.

35 g. Any other information prescribed by the administrator

1 pursuant to rule.

2 2. If a general contractor or owner-builder fails to post
3 the required notice of commencement of work to the state
4 construction registry internet website pursuant to subsection
5 1, within ten days of commencement of the work on the property,
6 a subcontractor may post the notice in conjunction with the
7 filing of the required preliminary notice pursuant to section
8 572.13B. A notice of commencement of work must be posted to the
9 state construction registry internet website before preliminary
10 notices pursuant to section 572.13B may be posted.

11 3. At the time a notice of commencement of work is posted
12 on the state construction registry internet website, the
13 administrator shall assign a state construction registry number
14 and send a copy of the owner notice described in section 572.13
15 along with other relevant information to the owner and to the
16 property address, addressed to "owner", as prescribed by the
17 administrator pursuant to rule.

18 4. A general contractor who fails to provide notice pursuant
19 to this section is not entitled to a lien and remedy provided
20 by this chapter.

21 5. This section applies only to residential construction
22 properties.

23 Sec. 10. NEW SECTION. 572.13B Preliminary notice —
24 subcontractor — residential construction.

25 1. A subcontractor shall post a preliminary notice to the
26 state construction registry internet website. A preliminary
27 notice posted before the balance due is paid to the general
28 contractor or the owner-builder is effective as to all labor,
29 service, equipment, and material furnished to the property by
30 the subcontractor. The preliminary notice shall contain all
31 of the following information:

32 a. The name of the owner.

33 b. The state construction registry number.

34 c. The name, address, and telephone number of the
35 subcontractor furnishing the labor, service, equipment, or

1 material.

2 *d.* The name and address of the person who contracted
3 with the claimant for the furnishing of the labor, service,
4 equipment, or material.

5 *e.* The name of the general contractor or owner-builder under
6 which the claimant is performing or will perform the work.

7 *f.* The address of the property or a description of the
8 location of the property if the property cannot be reasonably
9 identified by an address.

10 *g.* The legal description of the property.

11 *h.* The date the material or materials were first furnished
12 or the labor was first performed.

13 *i.* The tax parcel identification number.

14 *j.* Any other information required by the administrator
15 pursuant to rule.

16 2. At the time a preliminary notice is posted to the
17 state construction registry, the administrator shall send
18 notification to the owner, including the owner notice described
19 in section 572.13, subsection 1, and shall docket the mailing
20 of the notice on the state construction registry as prescribed
21 by the administrator pursuant to rule. Notices under this
22 section shall not be sent to owner-builders. Upon request, the
23 administrator shall provide an affidavit of mailing at no cost
24 for the notice required under this section.

25 3. *a.* A mechanic's lien perfected under this chapter
26 is enforceable only to the extent of the balance due the
27 general contractor or the owner-builder at the time of the
28 posting of the preliminary notice specified in subsection 1,
29 and, except for residential construction property owned by
30 an owner-builder, also is enforceable only to the extent of
31 the balance due the general contractor at the time the owner
32 actually receives the notice provided pursuant to subsection 2
33 or paragraph "b".

34 *b.* (1) In any action to enforce a mechanic's lien perfected
35 under this chapter against the owner, the subcontractor

1 bears the burden to prove by a preponderance of the evidence
2 that the owner received notice pursuant to subsection 2. A
3 subcontractor may satisfy the burden of proof by providing
4 separate notice to an owner by including but not limited to any
5 of the following means:

6 (a) By certified mail with return receipt.

7 (b) By personal service in the manner original notices are
8 required to be served.

9 (c) By actual notice with a signed receipt from the owner
10 acknowledging notice.

11 (2) If the subcontractor provides an affidavit of mailing,
12 the presumption is that the owner received the notice on the
13 fourth day of business for the post office after the notice was
14 sent and the burden of proof shifts from the subcontractor to
15 the owner to refute the presumption.

16 4. A subcontractor who fails to post a preliminary notice
17 pursuant to this section shall not be entitled to a lien and
18 remedy provided under this chapter.

19 5. This section applies only to residential construction
20 properties.

21 Sec. 11. Section 572.14, Code 2011, is amended by striking
22 the section and inserting in lieu thereof the following:

23 **572.14 Liability to subcontractor after payment to general**
24 **contractor or owner-builder.**

25 Except as provided in section 572.13B, payment to the
26 general contractor or owner-builder of any part or all of
27 the contract price of the building or improvement within
28 ninety days after the date on which the last of the materials
29 was furnished or the last of the labor was performed by a
30 subcontractor, does not relieve the owner from liability to the
31 subcontractor for the full value of any material furnished or
32 labor performed upon the building, land, or improvement if the
33 subcontractor posts a lien within ninety days after the date
34 on which the last of the materials was furnished or the last of
35 the labor was performed.

1 Sec. 12. Section 572.15, Code 2011, is amended to read as
2 follows:

3 **572.15 Discharge of ~~subcontractor's~~ mechanic's lien — bond.**

4 A mechanic's lien may be discharged at any time by ~~the owner,~~
5 ~~principal contractor, or intermediate subcontractor filing with~~
6 ~~the clerk of the district court of the county in which the~~
7 ~~property is located~~ submitting a bond to the administrator in
8 twice the amount of the sum for which the claim for the lien
9 is filed, with surety or sureties, to be approved by the ~~clerk~~
10 administrator, conditioned for the payment of any sum for which
11 the claimant may obtain judgment upon the claim.

12 Sec. 13. Section 572.16, Code 2011, is amended to read as
13 follows:

14 **572.16 Rule of construction.**

15 Nothing in this chapter shall be construed to require the
16 owner to pay a greater amount or at an earlier date than is
17 provided in the owner's contract with the ~~principal~~ general
18 contractor, unless ~~said~~ the owner pays a part or all of the
19 contract price to the ~~original~~ general contractor before the
20 expiration of the ninety days allowed by law for the ~~filing~~
21 posting of a mechanic's lien by a subcontractor; provided
22 that in the case of ~~an owner-occupied dwelling~~ residential
23 construction, nothing in this chapter shall be construed to
24 require the owner to pay a greater amount or at an earlier date
25 than is provided in the owner's contract with the ~~principal~~
26 general contractor, unless the owner pays a part or all of
27 the contract price to the ~~principal~~ general contractor after
28 ~~receipt of notice under section 572.14, subsection 2~~ the owner
29 receives notice pursuant to section 572.13B, subsection 2 or
30 subsection 3, paragraph "b".

31 Sec. 14. Section 572.17, Code 2011, is amended to read as
32 follows:

33 **572.17 Priority of mechanics' liens between mechanics.**

34 Mechanics' liens shall have priority over each other in the
35 order of the ~~filing~~ posting of the statements ~~or~~ of accounts as

1 ~~herein~~ provided in section 572.8.

2 Sec. 15. Section 572.18, subsections 1 and 3, Code 2011, are
3 amended to read as follows:

4 1. Mechanics' liens ~~filed~~ posted by a ~~principal~~ general
5 contractor or subcontractor within ninety days after the date
6 on which the last of the material was furnished or the last
7 of the claimant's labor was performed and for which notices
8 were properly posted to the state construction registry
9 internet website pursuant to sections 572.13A and 572.13B
10 shall be superior to all other liens which may attach to or
11 upon a building or improvement and to the land upon which it
12 is situated, except liens of record prior to the time of the
13 original commencement of the claimant's work or the claimant's
14 improvements, except as provided in subsection 2.

15 3. The rights of purchasers, encumbrancers, and other
16 persons who acquire interests in good faith, for a valuable
17 consideration, and without notice of a lien perfected pursuant
18 to this chapter, are superior to the claims of all general
19 contractors or subcontractors who have perfected their liens
20 more than ninety days after the date on which the last of the
21 claimant's material was furnished or the last of the claimant's
22 labor was performed.

23 Sec. 16. Section 572.22, Code 2011, is amended to read as
24 follows:

25 **572.22 Record of claim.**

26 ~~The clerk of the court~~ administrator shall endorse upon
27 every claim for a mechanic's lien ~~filed in the clerk's office~~
28 posted to the state construction registry internet website the
29 date and hour of filing posting ~~and make an abstract thereof in~~
30 ~~the mechanic's lien book kept for that purpose. Said book~~ Each
31 claim shall be properly indexed and shall contain the following
32 items ~~concerning each claim:~~

- 33 1. The name of the person by whom ~~filed~~ posted.
- 34 2. The date and hour of ~~filing~~ posting.
- 35 3. The amount thereof.

1 4. The name of the person against whom ~~filed~~ posted.

2 5. The legal description of the property to be charged
3 ~~therewith~~.

4 6. The tax parcel identification number of the property to
5 be charged.

6 7. The address of the property or a description of the
7 location of the property if the property cannot be reasonably
8 identified by an address.

9 Sec. 17. Section 572.23, Code 2011, is amended to read as
10 follows:

11 **572.23 Acknowledgment of satisfaction of claim.**

12 1. When a mechanic's lien is satisfied by payment of the
13 claim, the claimant shall acknowledge satisfaction thereof ~~upon~~
14 ~~the mechanic's lien book, or otherwise in writing,~~ and, if the
15 claimant neglects to do so for thirty days after demand in
16 writing is personally served upon the claimant, the claimant
17 shall forfeit and pay twenty-five dollars to the owner ~~or,~~
18 general contractor, or owner-builder and be liable to any
19 person injured to the extent of the injury.

20 2. If ~~acknowledgment~~ of satisfaction is not ~~filed~~
21 acknowledged within thirty days after service of the demand in
22 writing, the party serving the demand or causing the demand to
23 be served may file for record with the ~~clerk of the district~~
24 ~~court~~ administrator a copy of the demand with proofs of service
25 attached and endorsed and, in case of service by publication,
26 a personal affidavit that personal service could not be made
27 within this state. Upon completion of the requirements of this
28 subsection, the record shall be constructive notice to all
29 parties of the due forfeiture and cancellation of the lien.
30 Upon the filing of the demand with the required attachments,
31 the ~~clerk of the district court~~ administrator shall mail a
32 ~~file-stamped~~ date-stamped copy of the demand to both parties.

33 Sec. 18. Section 572.24, subsection 2, Code 2011, is amended
34 to read as follows:

35 2. An action to challenge a mechanic's lien may be

1 commenced in the district court or small claims court if the
2 amount of the lien is within jurisdictional limits. Any
3 permissible claim or counterclaim meeting subject matter and
4 jurisdictional requirements may be joined with the action.
5 The court shall make written findings regarding the lawful
6 amount and the validity of the mechanic's lien. In addition
7 to any other appropriate order, the court may enter judgment
8 on a permissibly joined claim or counterclaim. If the court
9 determines that the mechanic's lien is invalid, valid for a
10 lesser amount, frivolous, fraudulent, forfeited, expired, or
11 for any other reason unenforceable, the clerk of the district
12 court shall ~~make an entry of record to the mechanic's lien book~~
13 submit the ruling to the administrator who shall make a posting
14 to the state construction registry internet website regarding
15 the proper amount of the lien or, if warranted, canceling the
16 lien.

17 Sec. 19. Section 572.28, subsection 2, Code 2011, is amended
18 to read as follows:

19 2. If an action is not filed within thirty days after
20 demand to commence action is served, the party serving the
21 demand or causing the demand to be served may ~~file for record~~
22 post with the ~~clerk of the district court~~ administrator a copy
23 of the demand with proofs of service attached and endorsed
24 and, in case of service by publication, a personal affidavit
25 that personal service could not be made within this state.
26 Upon completion of the requirements of this subsection, the
27 record shall be constructive notice to all parties of the due
28 forfeiture and cancellation of the lien. Upon the ~~filing~~
29 posting of the demand with the required attachments, the ~~clerk~~
30 ~~of the district court~~ administrator shall mail a ~~file-stamped~~
31 date-stamped copy of the demand to both parties.

32 Sec. 20. Section 572.30, Code 2011, is amended to read as
33 follows:

34 **572.30 Action by subcontractor or owner against general**
35 **contractor or owner-builder.**

1 Unless otherwise agreed, a ~~principal~~ general contractor
2 or owner-builder who engages a subcontractor to supply
3 labor or materials or both for improvements, alterations or
4 repairs to a specific ~~owner-occupied dwelling~~ residential
5 construction property shall pay the subcontractor in full for
6 all labor and materials supplied within thirty days after
7 the date the ~~principal~~ general contractor or owner-builder
8 receives full payment from the owner. If a ~~principal~~ general
9 contractor or owner-builder fails without due cause to pay a
10 subcontractor as required by this section, the subcontractor,
11 or the owner by subrogation, may commence an action against
12 the general contractor or owner-builder to recover the amount
13 due. Prior to commencing an action to recover the amount
14 due, a subcontractor, or the owner by subrogation, shall give
15 notice of nonpayment of the cost of labor or materials to
16 the ~~principal~~ general contractor or owner-builder paid for
17 the improvement. Notice of nonpayment must be in writing,
18 delivered in a reasonable manner, and in terms that reasonably
19 identify the real estate improved and the nonpayment complained
20 of. In an action to recover the amount due a subcontractor,
21 or the owner by subrogation, under this section, the court
22 in addition to actual damages, shall award a successful
23 plaintiff exemplary damages against the general contractor
24 or owner-builder in an amount not less than one percent
25 and not exceeding fifteen percent of the amount due the
26 subcontractor, or the owner by subrogation, for the labor and
27 materials supplied, unless the ~~principal~~ general contractor or
28 owner-builder does one or both of the following, in which case
29 no exemplary damages shall be awarded:

30 1. Establishes that all proceeds received from the person
31 making the payment have been applied to the cost of labor or
32 material furnished for the improvement.

33 2. Within fifteen days after receiving notice of nonpayment
34 the ~~principal~~ general contractor or owner-builder gives a
35 bond or makes a deposit with the ~~clerk of the district court~~

1 administrator, in an amount not less than the amount necessary
2 to satisfy the nonpayment for which notice has been given
3 under this section, and in a form approved by a judge of the
4 district court, to hold harmless the owner or person having
5 the improvement made from any claim for payment of anyone
6 furnishing labor or material for the improvement, other than
7 the ~~principal~~ general contractor or owner-builder.

8 Sec. 21. Section 572.31, Code 2011, is amended to read as
9 follows:

10 **572.31 Cooperative and condominium housing.**

11 A lien arising under this chapter as a result of the
12 construction of an apartment house or apartment building which
13 is owned on a cooperative basis under chapter 499A, or which is
14 submitted to a horizontal property regime under chapter 499B,
15 is not enforceable, notwithstanding any contrary provision
16 of this chapter, as against the interests of an owner in an
17 ~~owner-occupied dwelling~~ a unit contained in the apartment
18 house or apartment building acquired in good faith and for
19 valuable consideration, unless a lien statement specifically
20 describing the ~~dwelling~~ unit is filed under section 572.8
21 within the applicable time period specified in section 572.9,
22 but determined from the date on which the last of the material
23 was supplied or the last of the labor was performed in the
24 construction of that ~~dwelling~~ unit.

25 Sec. 22. Section 572.32, Code 2011, is amended to read as
26 follows:

27 **572.32 Attorney fees — remedies.**

28 1. In a court action to enforce a mechanic's lien, ~~if~~
29 ~~the plaintiff furnished labor or materials directly to the~~
30 ~~defendant~~, a prevailing plaintiff may be awarded reasonable
31 attorney fees.

32 2. In a court action to challenge a mechanic's lien ~~filed~~
33 posted on an owner-occupied dwelling a residential construction
34 property, if the person challenging the lien prevails, the
35 court may award reasonable attorney fees and actual damages.

1 If the court determines that the mechanic's lien was filed
2 posted in bad faith or the supporting affidavit was materially
3 false, the court shall award the owner reasonable attorney fees
4 plus an amount not less than five hundred dollars or the amount
5 of the lien, whichever is less.

6 Sec. 23. Section 572.33, Code 2011, is amended to read as
7 follows:

8 **572.33 Requirement of notification for commercial**
9 **construction.**

10 1. The notification requirements in this section apply only
11 to commercial construction.

12 ~~1.~~ 2. A person furnishing labor or materials to a
13 subcontractor shall not be entitled to a lien under this
14 chapter unless the person furnishing labor or materials does
15 all of the following:

16 *a.* Notifies the ~~principal~~ general contractor or
17 owner-builder in writing with a one-time notice containing
18 the name, mailing address, and telephone number of the
19 person furnishing the labor or materials, and the name of the
20 subcontractor to whom the labor or materials were furnished,
21 within thirty days of first furnishing labor or materials for
22 which a lien claim may be made. Additional labor or materials
23 furnished by the same person to the same subcontractor for
24 use in the same construction project shall be covered by this
25 notice.

26 *b.* Supports the lien claim with a certified statement that
27 the ~~principal~~ general contractor or owner-builder was notified
28 in writing with a one-time notice containing the name, mailing
29 address, and telephone number of the person furnishing the
30 labor or materials, and the name of the subcontractor to whom
31 the labor or materials were furnished, within thirty days
32 after the labor or materials were first furnished, pursuant to
33 paragraph "a".

34 ~~2. This section shall not apply to a mechanic's lien on~~
35 ~~single-family or two-family dwellings occupied or used or~~

1 ~~intended to be occupied or used for residential purposes.~~

2 3. Notwithstanding other provisions of this chapter, a
3 ~~principal~~ general contractor or owner-builder shall not be
4 prohibited from requesting information from a subcontractor
5 or a person furnishing labor or materials to a subcontractor
6 regarding payments made or payments to be made to a person
7 furnishing labor or materials to a subcontractor.

8 Sec. 24. NEW SECTION. 572.33A **Liability of owner to general**
9 **contractor — commercial construction.**

10 An owner of a building, land, or improvement upon which
11 a mechanic's lien of a subcontractor may be filed, is not
12 required to pay the general contractor for compensation for
13 work done or material furnished for the building, land, or
14 improvement until the expiration of ninety days after the
15 completion of the building or improvement unless the general
16 contractor furnishes to the owner one of the following:

17 1. Receipts and waivers of claims for mechanics' liens,
18 signed by all persons who furnished material or performed labor
19 for the building, land, or improvement.

20 2. A good and sufficient bond to be approved by the owner,
21 conditioned that the owner shall be held harmless from any
22 loss which the owner may sustain by reason of the filing of
23 mechanics' liens by subcontractors.

24 Sec. 25. NEW SECTION. 572.34 **State construction registry**
25 **— residential construction.**

26 1. A state construction registry is created and shall be
27 administered by the administrator. The administrator shall
28 adopt rules pursuant to chapter 17A for the creation and
29 administration of the registry.

30 2. The state construction registry shall be accessible
31 to the general public through the administrator's internet
32 website.

33 3. The registry shall be indexed by owner name, general
34 contractor name, state construction registry number, property
35 address, legal description, tax parcel identification number,

1 and any other identifier considered appropriate as determined
2 by the administrator pursuant to rule.

3 4. A general contractor, owner-builder, or subcontractor
4 who posts fictitious, forged, or false information to the
5 state construction registry shall be subject to a penalty as
6 determined by the administrator by rule in addition to all
7 other penalties and remedies available under applicable law.

8 5. A person may post a correction statement with respect to
9 a record indexed in the state construction registry internet
10 website if the person believes the record is inaccurate or
11 wrongfully posted.

12 6. The administrator shall charge and collect fees as
13 established by rule necessary for the administration and
14 maintenance of the registry and the registry's internet
15 website. The administrator shall not charge a filing fee for
16 a preliminary notice required pursuant to this chapter that
17 exceeds the cost of sending such notice by certified mail with
18 restricted delivery and return receipt. The administrator
19 shall not charge a filing fee for a mechanics' lien that
20 exceeds forty dollars.

21 7. Notices may be posted to the state construction registry
22 electronically on the administrator's internet website, or
23 may be sent to the administrator for posting by United States
24 mail or facsimile transmission, or other alternate method
25 as provided by the administrator pursuant to rule. Notices
26 received by United States mail or facsimile transmission shall
27 be posted by the administrator to the state construction
28 registry within three business days of receipt.

29 8. Mechanics' liens may be posted to the state construction
30 registry electronically on the administrator's internet website
31 or may be sent to the administrator for posting by United
32 States mail. Liens received by United States mail shall be
33 posted by the administrator to the state construction registry
34 within three business days of receipt.

35 9. The administrator shall send a receipt acknowledging a

1 notice or lien submitted by United States mail or facsimile
2 transmission, as provided by the administrator by rule.

3 10. Information collected by and furnished to the
4 administrator in conjunction with the submission and posting
5 of notices pursuant to sections 572.13A and 572.13B shall be
6 used by the administrator solely for the purposes of the state
7 construction registry.

8 11. Registration under chapter 91C shall not be required in
9 order to post a notice or a lien under this chapter.

10 Sec. 26. Section 602.8102, subsection 82, Code 2011, is
11 amended to read as follows:

12 82. Carry out duties relating to liens as provided in
13 chapters 249A, ~~572,~~ 574, 580, 582, and 584.

14 Sec. 27. EFFECTIVE DATE AND APPLICABILITY.

15 1. This Act takes effect July 1, 2012.

16 2. Mechanic's liens filed prior to the effective date of
17 this Act shall remain with the clerk of the district court of
18 the county in which the building, land, or improvement charged
19 with the lien is situated.

20 3. The notice provisions contained in this Act apply only
21 to material furnished or labor performed after the effective
22 date of this Act.